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APPLICATION NO. **FILING DATE** FIRST NAMED INVENTOR ATTORNEY DOCKET NO. 08/883,075 06/26/97 GOVIL 5 BERTEK3.0-02 **EXAMINER** 000530 HM12/0824 LERNER, DAVID, LITTENBERG, WEBMAN, E KRUMHOLZ & MENTLIK PAPER NUMBER **ART UNIT** 600 SOUTH AVENUE WEST WESTFIELD NJ 07090 1617 DATE MAILED: 08/24/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

	Application No.	Applicant(s)
Office Action Summary	V8/883075	60/1C
	Examiner	GOVIL Group Art Unit 1617
The MAILING DATE of this communication app		
Peri d for Reply		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SE	T TO EVENE 3	MONTHYS) FROM THE MAILING DATE
A SHORTENED STATUTORY PERIOD FOR REPLY IS SE OF THIS COMMUNICATION.	I TO EXPIRE	MONTH(S) PROM THE MAILING DATE
 Extensions of time may be available under the provisions of 37 Cl from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, If NO period for reply is specified above, such period shall, by def Failure to reply within the set or extended period for reply will, by 	a reply within the statutory minimulant, expire SIX (6) MONTHS from	um of thirty (30) days will be considered timely. In the mailing date of this communication.
Status	11.	
Responsive to communication(s) filed on	7/1/0)	
This action is FINAL.		
Since this application is in condition for allowance exc accordance with the practice under Ex parte Quayle,	ept for formal matters, prose 1935 C.D. 1 1; 453 O.G. 213	ecution as to the merits is closed in
Disposition of Claims		
Claim(s)		is/are pending in the application.
Of the above claim(s) $1 - k3$		is/are withdrawn from consideration.
☐ Claim(s)		is/are allowed.
☐ Claim(s) 8 4 85		is/are rejected.
☐ Claim(s)		10/4/0 05j00104 to.
		are subject to restriction or election
☐ Claim(s)		
☐ Claim(s)		are subject to restriction or election
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☐ Claim(s) ☐ Claim(s) ☐ Application Papers ☐ See the attached Notice of Draftsperson's Patent Dra	wing Review, PTO-948.	are subject to restriction or election requirement.
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U. S. Patent and Trademark Office PTO-326 (Rev. 9-97)

Part of Paper No. 3

Application/Control Number: 08/883,075

Art Unit: 1617

Applicants' amendment appears to overcome Horstmann et al. Prosecution is reopened in view of a Finding of new art;

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 84, 85 are rejected under 35 U.S.C. 102(b) as being anticipated by Miranda et al ('253) (reference AB on PTO form 1449, Paper # 18, filed 5/8/00).

Miranda et al teach a transdermal comprising an active and a mixture of polymers, namely, an acrylate polymer and a polysiloxane (Abstract). Tetracaine and chlorpheniramine are specified (column 11 lines 5 and 25). (See applicants' claim 71).

No claims allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

This application contains claims 1-83 drawn to an invention nonelected with traverse in Paper No. 11. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman whose telephone number is (703) -308-4432. The examiner can normally be reached on Monday through Friday from 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, M. Moezie, can be reached on (703) -308-0570. The fax phone number for the organization where this application or proceeding is assigned is (703) -305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) -308-1235.

Webman/LR

July 31, 2001

PRIMARY EXAMINER
GROUP 1500